

EXHIBIT C

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:) Case No.
) 2:19-bk-14989-WB
SCOOBEEZ, et al) Jointly
Debtors and Debtors in) Administered:
Possession.) 2:19-bk-14991-WB;
) 2:19-bk-14997-WB

30(B)(6) DEPOSITION OF AMAZON

MICAH McCABE

10:00 A.M.

JANUARY 17, 2020

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REPORTED BY:

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JOB No. 3855212

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1 don't you restate what the second factor was that you
2 were looking into?

3 A. The DSP 2.0 program, the model that Amazon is
4 building, Scoobeez and then the proposed purchasers of
5 Scoobeez do not fit that business model.

6 Q. What is the 2.0 program?

7 A. The 2.0 program is a -- if you look at it,
8 it's more of a single owner, just a station
9 relationship, where the owner is highly engaged in the
10 day-to-day operations of the business, and so that
11 would be the 2.0 model.

12 Q. Was there a 1.0 model?

13 A. There is a 1.0 contract.

14 Q. And what is that?

15 A. The 1.0 is more of a one owner -- sorry. I
16 would say that from the 1.0, which is a term to what
17 contract we were using, the 1.0 contract, what the
18 output of that was, one owner to multiple stations. So
19 you could have one company operating in 3, 6, 9, 12
20 stations.

21 Q. And the 2.0, they would only operate in one
22 station?

23 A. Yes.

24 Q. Why was that a better model, in Amazon's view?

25 MR. DIAMANTATOS: Objection to the form.

1 they've been with Amazon?

2 A. I do not.

3 Q. I want to turn now to the standards for DSP
4 performance. What are first-day delivery routes?

5 A. I'm not familiar with that.

6 Q. Are you familiar with scorecards?

7 A. I'm aware -- I am aware that they exist.

8 Q. Have you ever seen any?

9 A. Yes, I have seen one before or several.

10 Q. Is that part of your review process when
11 you're looking at whether to consider a DSP for
12 potential termination?

13 A. That is a filter that we have looked at to
14 determine for termination, yes.

15 Q. You have looked at it but is it part of your
16 regular process for considering whether to terminate a
17 DSP?

18 MR. DIAMANTATOS: Objection. Form.

19 Go ahead.

20 THE WITNESS: It -- for the network-wide
21 reviews, we have brought that information in to look at
22 the network and the DSPs on a ongoing week-to-week
23 basis managing escalations. I don't pull that.

24 BY MS. NIX-HINES:

25 Q. Did you ever look at Scoobeez' scorecards?

1 A. I have not looked at their individual
2 scorecards.

3 Q. So that was not part of the process, not one
4 of the factors in considering whether or not to put
5 them on the terminations?

6 MR. DIAMANTATOS: Objection. Form.
7 Mischaracterizes his testimony.

8 THE WITNESS: We did apply a scorecard
9 filter, a performance filter, in the original analysis
10 that we did to determine if a DSP should be exited from
11 the network. I did not look at Scoobeez individual
12 weekly scorecards, but we did pull an aggregate.

13 BY MS. NIX-HINES:

14 Q. And do you know for that aggregate assessment
15 what period of time that covered?

16 A. I believe it was the first half of 2019 or up
17 to the date that we were doing the analysis.

18 Q. And that would have been in June or July?

19 A. Yeah.

20 Q. And do you recall where Scoobeez fell on the
21 aggregate list?

22 A. They had a score of fair. Their exact
23 placement on the entire list, I don't remember what row
24 they were in.

25 Q. And approximately how many DSPs were in that

1 review?

2 MR. DIAMANTATOS: I'm going to object to
3 form. Which review?

4 MS. NIX-HINES: He's talking about the
5 aggregate assessment of DSPs, again, in mid-2019, the
6 first half of 2019 up to June or July of 2019.

7 THE WITNESS: I can't remember if we ran
8 that just against the 1.0s or the 1.0s and the
9 migrating DSPs. So the number would range from 40 to
10 about 100.

11 BY MS. NIX-HINES:

12 Q. And of that 40 to 100, do you recall
13 approximately how many of those DSPs had a score of
14 fair?

15 A. I do not remember the breakdown specifically.

16 Q. What were the possible categories of ratings
17 that they could have had?

18 A. The categories were poor, fair; and I believe
19 after that goes great, fantastic, and fantastic plus.
20 Those last two are -- I don't remember their exact
21 names.

22 Q. Are those -- is it hard to get a fantastic?

23 A. I don't know the calculation that goes into
24 determining that.

25 Q. Do you recall whether any DSPs on the list had

1 a ranking of fantastic or fantastic plus?

2 A. I do not recall.

3 Q. So -- but just to clarify, your assessment was
4 not just the ones that were marked for consideration of
5 termination?

6 A. We looked at the population of DSPs through a
7 performance scorecard and looked at those who are
8 marked as poor and fair.

9 Q. Only?

10 A. As a reason to exit.

11 Q. But in the group that you were assessing, did
12 they cover the whole gamut of ratings, from poor to
13 fantastic plus? Or were you only looking at the ones
14 that were on the fit, poor, or fair ranking level?

15 A. The analysis was starting with the population
16 of DSPs, pulling in their performance scorecards. So
17 we would have pulled in all of where they ranked and
18 then from that identifying who was in the poor and the
19 fair bucket.

20 Q. I see, okay. And what percentage of the DSPs
21 fell into the poor or fair bucket?

22 A. I don't know that one.

23 Q. And would you only consider a DSP for
24 potential termination if they fell in the poor/fair
25 bucket?

1 A. That was my proposal.

2 Q. Your proposal. What had been the policy in
3 the past?

4 MR. DIAMANTATOS: Objection.
5 Foundation.

6 THE WITNESS: The -- I would say there
7 was no clear policy.

8 BY MS. NIX-HINES:

9 Q. What do you mean by that?

10 A. When I joined the DSP program, the exit
11 process wasn't established or clear.

12 Q. How did you come to that conclusion?

13 A. I'm inferring what I believe my leadership has
14 done, but they created the role for me to come in.

15 Q. Your role is to bring some clarity to the
16 process?

17 A. Yes. Bring clarity to the exit process and
18 structure to the analysis.

19 Q. And in the context of carrying out that
20 mandate, did you do a review of how the process had
21 been done in the past, the exit process?

22 A. I do not do a deep dive of any of the previous
23 exits that had executed, no.

24 Q. So how did you come to the conclusion that
25 only the fair and poor DSPs should be marked for

1 foundation. Asked and answered.

2 THE WITNESS: I am not aware of the
3 calculation that goes into those determinations.

4 BY MS. NIX-HINES:

5 Q. And that would be true for whether they were
6 rated fair as well, correct?

7 MR. DIAMANTATOS: Same objections.

8 THE WITNESS: That would be true for a
9 fair up to a fantastic.

10 BY MS. NIX-HINES:

11 Q. Is Amazon involved with communication with DSP
12 employees communicating the decision to terminate?

13 A. We need to clarify. When we talk about DSP
14 employees, are we talking about their drivers?

15 Q. Well, or the people running the DSP companies.

16 A. When a decision is made to terminate a DSP,
17 the discussion takes place with the DSP owner to notify
18 them; and as part of our process, we want to partner
19 with them and any news that they're going to deliver to
20 their drivers to the extent that their drivers may be
21 terminated.

22 Q. Was notifying them that they were marked for
23 termination within the scope of your responsibilities?

24 A. Notifying the DSP owner?

25 Q. Yes.

1 A. Yes, it can be.

2 Q. And is that something you did personally?

3 A. I did deliver the news to Scoobeez, yes.

4 Q. And how was that information communicated?

5 A. It was a phone call.

6 Q. Do you recall when that phone call occurred?

7 A. It was -- I believe it's October 1st, a

8 Monday, and it was at 3:00 p.m., my time, I believe.

9 Q. October 1st, 2019?

10 A. Yes.

11 Q. And do you recall with whom you spoke?

12 A. I do not recall the exact names of the people
13 on the phone.

14 Q. Do you recall what you communicated
15 specifically to Scoobeez?

16 A. I do recall the conversation.

17 Q. What did you tell them?

18 A. I told them that we were -- that Amazon had --
19 was terminating the business relationship. I provided
20 the two reasons which I had stated earlier as far as
21 indemnification of Amazon through the litigation, and
22 then the second reason being the business model was not
23 consistent with the DSP program, a 2.0 program.

24 I communicated that -- the separation
25 agreement that we were proposing, the amount of money

1 them to go work somewhere; however, we want to, if they
2 want to continue being a driver, we want to help
3 facilitate the introductions.

4 Q. At the time you had the call with Scoobeez'
5 owners in October of 2019, was that the first time they
6 had heard that information, to your knowledge?

7 A. Yes, to my knowledge, that would be the first
8 time. Let me clarify. That would be the first time
9 that they would hear that we wanted to terminate the
10 relationship.

11 Q. Would they have heard before about the
12 concerns about the litigation and indemnification of
13 Amazon?

14 MR. DIAMANTATOS: Objection to form.

15 THE REPORTER: I'm sorry. Would you
16 repeat that?

17 MS. NIX-HINES: Sure. Would they have
18 heard prior to that call regarding Amazon's concerns
19 with respect to litigation and indemnification of
20 Amazon for lawsuits?

21 MR. DIAMANTATOS: Objection. Form.
22 Foundation. Calls for speculation.

23 Go ahead.

24 THE WITNESS: I'm not part of the legal
25 team so I don't know what would have been communicated

1 prior.

2 BY MS. NIX-HINES:

3 Q. To your knowledge, prior to that call on
4 October 2019, would they have had any information
5 regarding -- prior to that call would they have any
6 knowledge as to concerns about the 2.0 business model?

7 MR. DIAMANTATOS: Same objections as
8 before. Form. Foundation. Calls for speculation.

9 THE WITNESS: I don't know what they
10 would have been aware of at that point.

11 BY MS. NIX-HINES:

12 Q. Do you recall what Scoobeez' reaction was to
13 the information that you communicated to them?

14 A. I recall that they asked me to repeat the
15 reasons. Outside of that, I don't have a recollection
16 of what they said, besides asking me to repeat why.

17 Q. And during that call, did you -- were you
18 communicating a final decision?

19 A. Yes. In that call, yes, and when we make
20 these decisions, it's -- we communicate that it is a --
21 it is our final decision and cannot be appealed.

22 Q. Prior to the call, had you or anyone in your
23 team communicated that they might be marked for
24 termination?

25 MR. DIAMANTATOS: Objection.

1 Foundation.

2 THE WITNESS: To the scope of my role,

3 I'm not aware of anybody communicating that.

4 BY MS. NIX-HINES:

5 Q. In general, prior to you picking up the phone
6 and making those kind of final decisions that you're
7 communicating to DSPs, what is the process leading up
8 to that to inform DSPs that there are concerns about
9 their performance?

10 A. I am not in the stations to understand what
11 performance reviews are being taken or on the
12 compliance team to understand what notices that they
13 have sent prior to those. So I can't really speak to
14 what additional communication or reviews the business
15 had prior.

16 Q. And you mentioned earlier that you had made a
17 proposal that DSPs that are being scored as a poor or a
18 fair be the ones marked for termination. Is that a
19 correct restatement of your testimony?

20 A. Yes. That would be a part of an initial
21 proposal I made.

22 Q. And was that proposal ever acted upon by your
23 supervisors?

24 MR. DIAMANTATOS: Objection. Calls for
25 speculation. Foundation.

1 compliance with the laws are a few that I know.

2 Q. And what does ongoing litigation refer to?

3 You mentioned that that was the other factor that was
4 recommended to be included?

5 A. Yes, thank you for asking. It wasn't
6 necessarily ongoing litigation. It was litigation --
7 it could be current or historical.

8 Q. Were there any particular kinds of litigation
9 that were of particular concern?

10 A. Related to DA pay practices.

11 Q. What is that?

12 A. Drivers suing their DSPs for incorrect pay,
13 related items.

14 Q. Did Scoobeez have any such complaints?

15 A. In the data that was provided to me, yes.

16 Q. Do you recall how many?

17 A. I don't recall the exact number. I believe it
18 was three or four.

19 MS. NIX-HINES: We've been going about
20 an hour. Why don't we take a short break.

21 (Recess taken 10:57 a.m. to 11:04 a.m.)

22 BY MS. NIX-HINES:

23 Q. You mentioned a concern with Scoobeez having
24 three or four lawsuits; is that correct?

25 A. Yes. I mentioned that there are three or four

1 lawsuits that we had identified as part of the analysis
2 or were provided to me.

3 Q. And that that was one of the two reasons that
4 you gave to Scoobeez as part of why they were being
5 marked for termination?

6 MR. DIAMANTATOS: Objection.
7 Mischaracterizes his testimony.

8 THE WITNESS: The point of the
9 litigation were identified as a reason for leading back
10 to that -- that reason.

11 BY MS. NIX-HINES:

12 Q. For termination?

13 A. Yes, to terminate the relationship.

14 Q. And was it the mere number of lawsuits that
15 led to that determination?

16 A. Yes. The analysis was to look at the number
17 of litigation cases that DSP had.

18 Q. Was any analysis done as to whether those
19 lawsuits had merit?

20 A. No. The analysis was to look at the number of
21 litigation cases the DSP had.

22 Q. Was any determination made as to the outcome
23 of those lawsuits?

24 A. No. The analysis was just to look at the
25 number of litigation cases against the DSP.

1 Q. So even if a DSP had successfully won those
2 lawsuits, the number of lawsuits would still have been
3 a concern?

4 MR. DIAMANTATOS: Objection.
5 Foundation.

6 THE WITNESS: The analysis was just to
7 look at the number of litigation cases.

8 BY MS. NIX-HINES:

9 Q. You mentioned that a second concern was with a
10 business model of Scoobeez and as a 1.0 rather than
11 than a 2.0; is that correct?

12 A. Yes, that is correct.

13 Q. And that was a factor in the termination
14 decision?

15 A. Yes, that is correct.

16 Q. Was any analysis done as to whether Scoobeez
17 could transition to becoming a 2.0?

18 A. No, there was nothing to my knowledge.

19 Q. Was any analysis done as to whether any DSPs
20 could transition from a 1.0 to a 2.0?

21 A. Not to my knowledge.

22 Q. So DSPs that fell within the 1.0 category were
23 all terminated? Is that your testimony?

24 MR. DIAMANTATOS: Objection. Form.
25 Mischaracterizes testimony.

1 MR. DIAMANTATOS: Objection. Foundation
2 and form.

3 THE WITNESS: I cannot speak to my
4 leadership's thought processes. My take is that a
5 private equity owner of a DSP does not fit the DSP 2.0
6 model.

7 BY MS. NIX-HINES:

8 Q. And why is that?

9 A. The DSP 2.0 model is an owner to a single
10 station and having that owner be specifically invested
11 in working in the stations with their employees. A
12 private equity firm would not be in the station, to my
13 knowledge, and have hands on the operations with the
14 employees.

15 Q. And you did not think that a private equity
16 firm could hire somebody that would be hands-on at the
17 station?

18 MR. DIAMANTATOS: Objection. Form.
19 Foundation. Calls for speculation. Mischaracterizes
20 witness's testimony.

21 THE WITNESS: The business -- the DSP
22 2.0 program is the owner, the owner to be connected to
23 the details.

24 BY MS. NIX-HINES:

25 Q. Self-private equity companies sat on the board

1 Q. Do the scorecards factor in in any way in the
2 decision to terminate a DSP?

3 A. When I performed an analysis and issue the
4 paper or presentation I recommended, that took place in
5 July. And the work that took place in the prior weeks,
6 we incorporate a scorecard data into that as a
7 threshold for a recommendation to terminate.

8 Q. And did you work with Ashley Hill on that?

9 A. I worked with a member of her team to get the
10 information.

11 Q. Has the scorecard information been
12 incorporated into the process after you delivered that
13 presentation?

14 MR. DIAMANTATOS: Objection.
15 Foundation.

16 THE WITNESS: The output of that review
17 of incorporating the scorecard, the feedback that we
18 received was to look at the DSP population through two
19 different lenses, one which was the account of DA
20 litigation and the other one was the compliance.

21 BY MS. NIX-HINES:

22 Q. So scorecards were not, then -- the decision
23 was not made to include scorecards as part of those
24 factors?

25 A. The decision was to look at it from a

1 different approach, even though we already had
2 scorecard information. We did not -- but we did not
3 use a filter of scorecards after that.

4 Q. But you had recommended that it be a filter?

5 A. I had, yes, I had proposed that.

6 Q. Were there any other filters that you had
7 proposed?

8 A. I had also proposed a percent of network
9 impact or percent of network share as something that we
10 needed to look at.

11 Q. What does that mean?

12 A. A DSP who may operate in 20 stations, have
13 owned -- and their routes account, for example -- it's
14 an egregious number, but 20 percent of all routes,
15 whether that is a risk to our network, given that
16 relationship and the dependency on them.

17 Q. If you had a DSP that had that kind of market
18 share, how would that impact your decision? Would you
19 be more inclined to terminate them or not terminate
20 them?

21 MR. DIAMANTATOS: Objection to form.

22 THE WITNESS: It's been a while since I
23 reviewed my paper. I believe my recommendation was to
24 shrink the footprint.

25

1 Foundation.

2 Go ahead.

3 THE WITNESS: Can you clarify what you
4 mean by --

5 BY MS. NIX-HINES:

6 Q. Yes. So you notify a DSP that you're going to
7 terminate, but there is this delay before they're
8 actually out the door. Do you notice any consequences
9 to Amazon as a result of the fact that they're still
10 working with Amazon, even knowing that they're going to
11 be terminated?

12 MR. DIAMANTATOS: Same objection.

13 THE WITNESS: I would say there are two
14 things I would point out. One is between the period of
15 us notifying the owner and us notifying the drivers,
16 there is a risk of drivers finding out in some other
17 manner besides a partnership between Amazon and the DSP
18 notifying the drivers. So there is a risk associated
19 with that area. So it's not necessarily a harm, but
20 it's a risk I'm very aware of.

21 In regards to harm, the dragging out of a
22 relationship between Amazon and the DSP of which Amazon
23 does not want to be in partnership with any more, it
24 does impact the planning and timing. It's -- I don't
25 know how to quantify or describe that harm, but there

1 is a harm for continued into a forced relationship that
2 at that time has already become a tense relationship
3 because there is a known termination date coming up.

4 BY MS. NIX-HINES:

5 Q. Have you seen any tangible consequences as a
6 result of that tension?

7 MR. DIAMANTATOS: Objection to form.

8 Go ahead.

9 THE WITNESS: I would say tangible from
10 a planning standpoint. This is more of an operational
11 thing. A common question I get from my peers is when
12 is the last date so they can plan accordingly from a
13 recruitment standpoint or from a capacity standpoint.

14 From a relationship in the stations, I guess
15 it would be hearsay. I have not seen it directly, but
16 compliance with some of our day-to-day operational
17 requirements begins to slip. So those would be
18 examples I can think of.

19 BY MS. NIX-HINES:

20 Q. Have you ever seen the reverse, where
21 improvement improves even though they've been
22 designated for termination?

23 A. I would say that I haven't looked for it, and
24 so I can't say whether it has improved. I know there
25 are exits that take place where people -- we do leave

1 was -- with the exit that Scoobeez will probably
2 terminate some of their drivers. Under federal law and
3 some state laws they may have to file necessary
4 paperwork.

5 Q. And the consequences that you mentioned of the
6 uncertainty and all that, if Amazon had agreed not to
7 terminate Scoobeez, those concerns would go away; is
8 that correct?

9 A. No, I disagree. We would still be in partner
10 with a DSP that has a history of litigation.
11 Litigation, when Amazon is brought into it, costs
12 money. It costs time for attention for employees to
13 address it, and then there is also a PR risk associated
14 with the litigation related to DSPs.

15 Q. What PR risk is that?

16 A. I would point to a Buzz Feed article that came
17 out several months ago associated with DSPs that have
18 poor DA practice -- pay practices, and there was
19 accidents that were resulting from their -- those
20 drivers. Those are DSPs that we may or may not choose
21 to be in relationship with because of how they're --
22 because of their litigation history.

23 Q. Is Scoobeez mentioned in that Buzz Feed
24 article?

25 A. I don't recall specifically who was mentioned.

REPORTER'S CERTIFICATE

I, JUDY BONICELLI, the undersigned Certified Court Reporter, pursuant to RCW 5.28.010 authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify:

That the sworn testimony and/or proceedings, a transcript of which is attached, was given before me at the time and place stated therein; that any and/or all witness(es) were duly sworn to testify to the truth; that the sworn testimony and/or proceedings were by me stenographically recorded and transcribed under my supervision, to the best of my ability; that the foregoing transcript contains a full, true, and accurate record of all the sworn testimony and/or proceedings given and occurring at the time and place stated in the transcript; that I am in no way related to any party to the matter, nor to any counsel, nor do I have any financial interest in the event of the cause.

WITNESS MY HAND and DIGITAL SIGNATURE this
29th day of January, 2020.



JUDY BONICELLI, RPR, CCR

Washington Certified Court Reporter, CCR 2322